



Board of Minerals and Environment

523 East Capitol Avenue
Pierre, South Dakota 57501-3182
(605)773-3151 Fax: (605)773-4068

AGENDA

Board of Minerals and Environment
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

October 15, 2015
10:00 a.m. CDT

Note: Scheduled times are estimates only. Agenda items may be delayed due to prior scheduled items or may be moved up on the agenda.

10:00 a.m. Call meeting to order and roll call

Approval of minutes from September 17, 2015, meeting

10:15 a.m. Hearing regarding the remand to the board in the matter of the petition of Luff Exploration Company, Denver, CO, for an order pooling all interests in a spacing unit for the South Medicine Pole Hills Field, Harding County, SD, and to authorize the recovery of risk compensation in addition to the pro rata share of reasonable, actual costs from the interest of any lessee or unleased mineral owner who elects not to participate in the risk and cost of drilling and completing a well on said spacing unit

11:00 a.m. Mining issues

- Consent Calendar – Bret Graves
- Exchange of surety for Wharf Resources (USA), Inc.'s post closure financial assurance – Eric Holm
- Transfer of Permits 14 and 444 from Hills Materials Company to Simon Contractors of SD, Inc. dba Hills Materials Company – Eric Holm

In the matter of LAC Minerals (USA), LLC's petition for release of reclamation liability, updated reclamation plan and financial assurance, request to extend reclamation period, post closure plan and financial assurance, and request to retain water management facilities and access roads

Adjourn

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the meeting if you have a disability for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-4216.

Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting
DENR Lower Level Conference Room
523 East Capitol Avenue
Pierre, South Dakota

September 17, 2015
10:00 a.m. CT

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairman Rex Hagg. The roll was called and a quorum was present.

BOARD MEMBERS PARTICIPATING: Rex Hagg, Linda Hilde, Dennis Landguth, Glenn Blumhardt, Pete Bullene, Doyle Karpen, Daryl Englund, and Bob Morris.

BOARD MEMBER ABSENT: Gregg Greenfield.

OTHERS PRESENT: Mike Cepak, Eric Holm, Bret Graves, and Mike Lees, DENR Minerals and Mining Program.

APPROVAL OF MINUTES FROM AUGUST 19-20, 2015, MEETING: Motion by Englund, seconded by Blumhardt, to approve the minutes from the August 19-20, 2015, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

MINING ISSUES

Consent Calendar: Prior to the meeting the board received a table listing the department recommendations for transfer of liability and release of surety, transfer of liability, and releases of liability (see attachment).

Transfer of Liability and Release of Surety: Motion by Bullene, seconded by Landguth, to accept the department recommendations for transfer of liability and release of surety from Schultz Ready Mix, Mine License No. 95-256 to Schultz Redi-Mix, LLC, Mine License No. 15-985, and transfer of liability from Morris, Inc., Mine License No. 83-2 to Obenauer Sand & Gravel, Mine License No. 84-282, as listed on the consent calendar. A roll call vote was taken, and the motion carried unanimously.

Releases of Liability Motion by Blumhardt, seconded by Englund, to accept the department recommendations for releases of liability for Arthur E. Argo, Jr., Mine License No. 09-876, Bowes Construction, Inc., Mine License No. 83-164, Schladweiler Construction, Mine License No. 83-167, Western Construction, Inc., Mine License No. 09-880, and Harding County Highway Department, Mine License No. 83-66. A roll call vote was taken, and the motion carried unanimously.

RELEASE OF LIABILITY AND SURETY FOR DAKOTA BLOCK COMPANY, A DIVISION OF PETE LIEN & SONS, INC., SMALL SCALE MINE PERMIT NO. 457: Eric Holm, DENR Minerals and Mining Program, reported that Dakota Block Company, a division of

Pete Lien & Sons, Inc., Rapid City, SD, has requested a release of liability for 3.14 acres of land affected and reclaimed under Small Scale Mine Permit No. 457. The general location of the mine is three miles east of Rapid City. The Board of Minerals and Environment previously released 2.81 acres of reclaimed land at the mine site in February 2003.

The final inspection took place on July 14, 2015, with Clint Beck of Dakota Block's parent company, Pete Lien & Sons, Inc. Cattle were grazing the area at the time of the inspection. The site was regraded and seeded by Pete Lien a few years ago. Vegetative cover was good to excellent and consists of wheat grasses, green needle grass, side oats grama, and smooth brome grass. Most of the species are in the approved seed mix. The post-mine land use for the mine site is hay land with a secondary land use of grazing.

Mr. Holm stated that the department received a letter for the landowner on August 3, 2015, requesting that the reclaimed area be allowed to be used for the secondary use of grazing, which includes a small water hole left by the mining operation. Matthew Oden of the Pennington County Natural Resources Conservation Service office inspected the reclaimed area on August 12, 2015, and determined that the reclaimed area is suited for livestock grazing.

The department recommended release of Dakota Block Company's reclamation liability and the \$2,500 reclamation bond.

Mr. Holm stated that prior to bond release, Dakota Block Company is required to submit a post closure plan and bond to the department. However, since the reclamation in this area has been successful, staff believes a post closure plan and bond is not necessary, therefore, the department recommended the board waive the post closure requirements for this area.

Mr. Holm answered questions from the board.

Motion by Morris, seconded by Karpen, to release liability and \$2,500 and to waive the post closure plan and bond for Dakota Block Company, a Division of Pete Lien & Sons, Inc., Rapid City, SD, Mine Permit No. 457. A roll call vote was taken, and the motion carried unanimously.

NEXT MEETING: The next meeting is scheduled for October 15, 2015, at the Matthew Training Center in Pierre.

At the October 15 meeting, the board will hold a hearing in the matter of LAC Minerals (USA), LLC's petition for release of reclamation liability, updated reclamation plan and financial assurance, request to extend the reclamation period, post closure plan and financial assurance, and request to retain water management facilities and access roads. Gregg Greenfield is the hearing chairman for this matter.

Bob Morris, hearing chairman for Oil & Gas Case No. 28-2013, Luff Exploration Company, reported that this matter was appealed to the Circuit Court. It was then appealed to the Supreme Court and the Supreme Court reversed and remanded it to the Circuit Court. The Circuit Court issued an Order of Remand to the Board of Minerals and Environment.

Board of Minerals and Environment
September 17, 2015, Meeting Minutes

Mr. Morris requested that the hearing be placed on the October 15, 2015, Board of Minerals and Environment meeting agenda.

ADJOURNMENT: Motion by Karpen, seconded by Hilde, that the meeting be adjourned. A roll call vote was taken, and the motion carried unanimously.

The meeting was digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886. The recording is also available on the DENR website at <http://denr.sd.gov/boards/schedule.aspx>.

Approved this 15th day of October, 2015.

Secretary

Date

Witness

Date

South Dakota Board of Minerals & Environment

Consent Calendar

September 17, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Transfers of Liability & Release of Surety:</u>						
Schultz Ready Mix Avon, SD	95-564		\$3,500	6891	Community State Bank, Avon	Transfer liability and release \$3,500.
		564001	NE1/4 NW1/4 Section 25; T94N-R62W, Charles Mix County			
		564002	SE1/4 SW1/4 Section 1; T95N-R65W, Charles Mix County			
Transfer to:						
Schultz Redi-Mix LLC Avon, SD	15-985		\$3,500	61652	Commercial State Bank, Wagner	

South Dakota Board of Minerals & Environment

Consent Calendar

September 17, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Transfer of Liability:</u>						
Morris Inc. Pierre, SD	83-2		\$20,000	037S1035978 78	Travelers Casualty & Surety Company of America	Transfer liability.
		2044	S1/2 NW1/4 Section 12; T125N-R73W, McPherson County			
Transfer to:						
Obenauer Sand & Gravel Eureka, SD	84-282		\$5,382	305050	Great Plains Bank, Eureka	
			\$1,866	306016	Great Plains Bank, Eureka	
			\$2,984	30233	Great Plains Bank, Eureka	
			\$1,174	30174	Great Plains Bank, Eureka	
			\$1,007	31184	Great Plains Bank, Eureka	
			\$1,007	31185	Great Plains Bank, Eureka	
			\$4,000	61997	Great Plains Bank, Aberdeen	
<u>Releases of Liability:</u>						
Arthur E. Argo, Jr. Wilmot, SD	09-876		\$3,500	13458	First State Bank, Wilmot	Release liability.
			\$3,000	13115	First State Bank, Wilmot	
			\$500	13091	First State Bank, Wilmot	
		876003	SW1/4 NW1/4 Section 26; T123N-R50W, Roberts County			

South Dakota Board of Minerals & Environment

Consent Calendar

September 17, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Releases of Liability:</u>						
Bowes Construction, Inc. Brookings, SD	83-164	164028	\$20,000	HGMW-10-206-0065	Hudson Insurance Company	Release liability.
			NE1/4 SE1/4 Section 28; T126N-R69W, McPherson County			
Schladweiler Construction Mitchell, SD	83-167	167003	\$2,500	103982	Fulton State Bank, Mitchell	Release liability.
			\$1,500	104097	Fulton State Bank, Mitchell	
			\$1,000	103814	Fulton State Bank, Mitchell	
			\$500	104186	Fulton State Bank, Mitchell	
			\$500	103809	Fulton State Bank, Mitchell	
			\$500	102880	Fulton State Bank, Mitchell	
			SW1/4 Section 17; & NW1/4 Section 20; T105N-R68W, Brule County			

South Dakota Board of Minerals & Environment

Consent Calendar

September 17, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Releases of Liability:</u>						
Western Construction Inc. Rapid City, SD	09-880		\$20,000	105126710	Travelers Casualty & Surety Company of America	Release liability.
		880005	Section 6; T3N-R8E, Meade County			
Harding County Highway Department Buffalo, SD	83-66		EXEMPT	NA	NA	Release liability.
		66009	SE1/4 SW1/4 Section 30 & NE1/4 NW1/4 Section 31; T21N-R6E, Harding County			

South Dakota Board of Minerals & Environment

September 17, 2015

<u>License or Permit Holder</u>	<u>License or Permit Number</u>	<u>Site Number or Legal</u>	<u>Surety Amount</u>	<u>Surety Number</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Release of Liability and Surety:</u>						
Dakota Block Company a Division of Pete Lien & Sons, Inc. Rapid City, SD	457		\$2,500	ILOC No. S500999	UMB Bank, Kansas City, MO	Release liability and \$2,500.
		Legal:	SW1/4 NE1/4 Section 26; T2N-R8E, Pennington County			

DRAFT

South Dakota Board of Minerals & Environment

Consent Calendar

October 15, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Transfers of Liability:</u>						
Hills Materials Company Rapid City, SD	83-42		\$20,000	8881210	Fidelity & Deposit Company of Maryland	Transfer liability.
		42003				NE1/4 Section 35 & N1/2 NW1/4 & SW1/4 NW1/4 Section 36; T6N-R3E, Lawrence County
		42004				Section 33 & Section 34; T5S-R4E, Custer County
		42006				N1/2 SW1/4, N1/2 SE1/4 Section 12; T2N-R6E & Lot 3 SW1/4 Section 7; T2N-R7E, Meade County
		42007				S1/2 Section 30; T2N-R7E, Pennington County
		42009				Portion of SW1/4 NE1/4, NW1/4 SE1/4, NE1/4 SE1/4, E1/2 NW1/4 Section 33 & Portion of SW1/4 SW1/4 & SE1/4 SW1/4 Section 28; T2N-R7E, Pennington County
		42013				Section 34; T7S-R6E, N1/2 Section 3 & W1/2 Section 2; T8S- R6E, Fall River County
		42014				Section 11, 14, & NE1/4 SE1/4 Section 10; T7S-R5E, Fall River County
		42020				Tract A NE1/4 SE1/4 & Lot NW-1 SE1/4 SE1/4 Section 6 & Lot NW-2 SW1/4 SW1/4 Section 5; T5N-R5E, Meade County
		42022				Portion of E1/2 Section 18 North of I-90 except N1/2 NE1/4 Section 18; T6N-R3E, Lawrence County
		42027				NE1/4 NE1/4 Section 14; T8S-R6E, Fall River County
Transfer to:						
Simon Contractors of SD, Inc. DBA Hills Materials Company Rapid City, SD	14-977		\$20,000	014069558	Liberty Mutual Insurance Company	

South Dakota Board of Minerals & Environment

Consent Calendar

October 15, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Exchange of Surety:</u>						
Simon Contractors of SD, Inc. DBA Hills Materials Company Rapid City, SD	14-977		\$20,000	014069558	Liberty Mutual Insurance Company	Exchange Bond No. 014069558, Liberty Mutual Insurance Company, for Bond No. 014071180, Liberty Mutual Insurance Company in the amount of \$20,000.
<u>Release of Surety:</u>						
Dakota Trucking Inc. Wessington Springs, SD	10-899		\$2,500	104967	American Bank & Trust, Wessington Springs	Release \$2,500.
<u>Releases of Liability:</u>						
Allen S. Abbas DBA A & M Trucking Chancellor, SD	02-743		\$500	56308	First National Bank, Pierre	Release liability.
			\$3,000	81888	First National Bank, Pierre	
			\$1,000	6455200	Home Federal Bank, Lennox	
			\$1,000	6444053	Home Federal Bank, Lennox	
			\$1,500	6433105	Home Federal Bank, Lennox	
			\$1,500	6424104	Home Federal Bank, Lennox	
			\$1,500	234349	Reliabank Dakota, Tea	
	743001	West 40 acres of Section 26; T99N-R53W, Turner County				

South Dakota Board of Minerals & Environment

Consent Calendar

October 15, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Releases of Liability:</u>						
Campbell County Highway Department Mound City, SD	83-237		EXEMPT	NA	NA	Release liability.
		237007	S1/2 Section 11; T126N-R77W, Campbell County			
Hyde County Highway Department Highmore, SD	83-88		EXEMPT	NA	NA	Release liability.
		88001	NE1/4 Section 9; T115N-R73W, Hyde County			
		88002	NW1/4 Section 36; T116N-R72W, Hyde County			
		88005	SE1/4 Section 12; T111N-R72W & SW1/4 Section 7; T111N-R71W, Hyde County			
		88006	NW1/4 Section 11; T109N-R71W, Hyde County			
		88010	NW1/4 Section 32; T111N-R71W, Hyde County			
		88013	SE1/4 Section 4; T115N-R73W, Hyde County			
		88014	NW1/4 Section 17; T112N-R72W, Hyde County			

South Dakota Board of Minerals & Environment

Consent Calendar

October 15, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Releases of Liability:</u>						
Jerauld County Highway Department Wessington Springs, SD	83-80		EXEMPT	NA	NA	Release liability.
		80001	NE1/4 Section 16; T107N-R67W, Jerauld County			
		80039	NW1/4 Section 24; T108N-R66W, Jerauld County			
		80049	SE1/4 Section 23; T106N-R65W, Jerauld County			

South Dakota Board of Minerals & Environment

October 15, 2015

<u>License or Permit Holder</u>	<u>License or Permit Number</u>	<u>Site Number or Legal</u>	<u>Surety Amount</u>	<u>Surety Number</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Exchange of Surety for Wharf Resources (USA) Inc.'s Post Closure Financial Assurance:</u>						
Wharf Resources (USA) Inc. Lead, SD	356, 434, 435, 464, & 476		\$25,000,000	1000967509	US Specialty Insurance Company	Exchange Bond No. 1000967509, US Specialty Insurance Company and Bond No. K09047761, Westchester Fire Insurance Company, for Bond No. SUR0032045, Argonaut Insurance Company, in the amount of \$30,783,000.
			\$5,783,000	K09047761	Westchester Fire Insurance Company	

South Dakota Board of Minerals & Environment

October 15, 2015

<u>License or Permit Holder</u>	<u>License or Permit Number</u>	<u>Site Number or Legal</u>	<u>Surety Amount</u>	<u>Surety Number</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Transfer of Small Scale Mine Permit :</u>						
Hills Materials Company Rapid City, SD	444		\$2,500	8866122	Fidelity & Deposit Company of Maryland	Transfer Permit 444 to Simon Contractors of SD, Inc. DBA Hills Materials Company and release Bond No. 8866122, Fidelity & Deposit Company of Maryland in the amount of \$2,500. Accept Bond No. 014071182, Liberty Mutual Insurance Company, in the amount of \$2,500.
		Legal:	S1/2 Section 30; T2N-R7E, Pennington County			
Transfer to:						
Simon Contractors of SD, Inc. DBA Hills Materials Company Rapid City, SD			\$2,500	014071182	Liberty Mutual Insurance Company	

South Dakota Board of Minerals & Environment

October 15, 2015

<u>License or Permit Holder</u>	<u>License or Permit Number</u>	<u>Site Number or Legal</u>	<u>Surety Amount</u>	<u>Surety Number</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Transfer of Large Scale Mine Permit:</u>						
Hills Materials Company Rapid City, SD	14		\$99,000	8881076	Fidelity & Deposit Company of Maryland	Transfer Permit 14 to Simon Contractors of SD, Inc. DBA Hills Materials Company and release Bond No. 8881076, Fidelity & Deposit Company of Maryland in the amount of \$99,000. Accept Bond No. 014071181, Liberty Mutual Insurance Company, in the amount of \$99,000.
		Legal:				
Transfer to:						
Simon Contractors of SD, Inc. DBA Hills Materials Company Rapid City, SD			\$99,000	014071181	Liberty Mutual Insurance Company	

South Dakota Board of Minerals & Environment

October 15, 2015

<u>License or Permit Holder</u>	<u>License or Permit Number</u>	<u>Site Number or Legal</u>	<u>Surety Amount</u>	<u>Surety Number</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Request for Partial Release of Reclamation Liability, Updated Reclamation Plan, Approval of Post Closure Plan, Retention of Water Management Facilities and Access Roads, Request to Extend Reclamation Period, and Setting Reclamation and Post Closure Financial Assurance Types and Amounts:</u>						
LAC Minerals (USA), LLC Central City, SD	445 & 460		\$10,700,000	ILOC # P53190T04092	Royal Bank of Canada, Ontario, Canada	
		Legal:	Portions of Sections 10, 11, 14, 15, 22, 23, 26, & 35; T5N-R2E except for 1.76 unreclaimed acres included in the updated reclamation plan and 73.33 unreclaimed acres of roads and facilities needed for water management throughout the post closure period. These acres will not be released until final reclamation has been completed.			Release ILOC #P53190T04092 in the amount of \$10,700,000 in exchange for a financial assurance type in the amount of \$61,100 as reclamation surety and \$19,667,216 as post closure surety.
Department Recommendation:						
<ol style="list-style-type: none"> 1) Approve LAC Minerals' petition for release of reclamation obligations for 265.94 acres of reclaimed land under Mine Permit Nos. 445 and 460 and release LAC Minerals' reclamation financial assurance in the amount of \$10,700,000. 2) Approve LAC Minerals' post closure plan for approximately 220.65 acres under Mine Permit No. 445, set a post closure care period at 100 years (2016 to 2115), and set the post closure financial assurance in the amount of \$19,667,216 in a form acceptable to the Board. 3) Approve LAC Minerals' request to extend the reclamation period for five years for 1.76 unreclaimed acres under Mine Permit No. 445. 4) Approve LAC Minerals' updated reclamation plan for 1.76 unreclaimed acres, and set a new reclamation financial assurance in the amount of \$61,100 in a form acceptable to the Board. 5) Allow 73.33 acres of roads, buildings, and structures needed for water management to remain throughout the post closure period. 6) Grant LAC Minerals' request to retain the Richmond Hill Access Road, Main Haul Road, Carbonate Road, Spearfish Fire Trail, Rubicon Gulch Access Road, and Limestone Quarry Road following the completion of water management activities. 						